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SIPDIS

PM/DTCC - BLUE LANTERN COORDINATOR MEREDITH SUNDLOF
STACIE ZERDECKI EUR/WE

E.O. 12958: N/A
TAGS: [ETTC](#) [KOMC](#) [SP](#) [ID](#)
SUBJECT: REPLY TO BLUE LANTERN POST-SHIPMENT CHECK 050106146

REF: A. STATE 92584
[B](#). 9/9/09 SUNDLOF-MURRAY FAX
[C](#). 2008 MADRID 408

[1](#). SUMMARY: Post has previously confirmed the bona fides of Spanish aerospace and defense leader European Aeronautic Defense and Space (EADS) CASA as a responsible recipient of United States Munitions List items (ref C). Post contacted the Spanish Air Force as well as EADS CASA regarding the post-shipment check requested (ref A). David de Teran, Head of Export Compliance for EADS CASA, informed Madrid ODC and Pol-Mil officer October 7 that the cables and cable assemblies for C-295 aircraft included in license 050106146 were not/not intended for the Spanish Air Force, had therefore not been received by Spain, and further, remain in Indonesian Aerospace facilities in Bandung. EADS CASA questioned whether the cables fall under International Traffic in Arms Regulations (ITAR - see para 3) but undertook to inform its Indonesian partners and U.S. suppliers of related limitations and provisos. EADS CASA will submit a General Correspondence to the Department in order to modify the actual end-user once known and seek permission to re-export the cables to the authorized end user. END SUMMARY.

//Background on the "Unusual Routing"//

[2](#). EADS CASA worked together with Indonesia on the development and production of the CN-235 aircraft. De Teran elaborated that EADS CASA had subcontracted a work package for the C295 to Indonesian Aerospace (the foreign intermediate consignee listed in reftel A). The work package was only for C295 aircraft but did not include a specific end-user of said aircraft. According to de Teran, Indonesian Aerospace purchased the cables described (ref A) from P&R Trading, Inc. in 2008 for the fulfillment of the work package. In doing so, Indonesian Aerospace officials did not inform EADS CASA that the items ordered were subject to ITAR, necessitating the submission of a DSP5. The company nonetheless contacted Fulgencio Fernandez Perez, EADS CASA's technical representative in Indonesia, asking that he sign the End-Use Certification (ref B) in March 2008 and specifying that an end user had to be included. De Teran held that Fernandez did not know the end-use statement was for a DSP5 or any other U.S. export license and was furthermore unaware of the terms, conditions, provisos, and limitations of the DSP5. Under pressure from Hadi Djumhana of Indonesian Aerospace to list an end-user, Fernandez allegedly included the Spanish Air Force (a current customer of the C295) as a "potential" end-user.

//ITAR Regulations//

[3](#). EADS CASA's lead buyer for this type of cable maintains that none of its suppliers have ever informed the company that the items on the license fall under ITAR. De Teran clarified that EADS CASA does not normally purchase from P&R Trading, Inc. but has experience with a Texas-based supplier

called Polygon. De Teran planned to contact P&R Trading to ask why the supplier felt the need to submit a DSP5 at all if the items included were not subject to ITAR.

//Next Steps//

14. EADS CASA confirms that the cables and cable assemblies are still in Indonesian Aerospace's facility. De Teran said EADS had informed Indonesian Aerospace that they were not to move the cables to other locations, including EADS CASA's facility, without the prior written approval and notice of EADS CASA. In response to the confusion occasioned by this order and the above signature process, EADS CASA has instituted a policy stating that all end-use statements, end-user certificates, DSP83s, and any other documents in support of U.S. export licenses will require the signature of the Head of Procurement or Head of Program as well as de Teran's signature as head of Export Compliance. In the case of signature of a TAA, de Teran said EADS would enforce the same internal control procedures. De Teran said EADS CASA would plan to submit a General Correspondence to the State Department (presumably via DS-6004) in order to modify the end-user listed on the DSP5, once a concrete end-user is known. Once EADS receives the Department's eventual approval, EADS will retrieve the cables from Indonesian Aerospace and re-export same to the end-user authorized by the State Department.

CHACON